

54-17-203 Independent evaluator.

- (1)
 - (a) The commission shall:
 - (i) appoint an independent evaluator to monitor any solicitation conducted by an affected electrical utility under this chapter; and
 - (ii) oversee or direct the division to oversee the independent evaluator in monitoring any solicitation conducted by an affected electrical utility under this chapter.
 - (b) The commission, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules setting the qualifications of an independent evaluator.
- (2) The commission shall determine the method used to pay the fees and expenses for the independent evaluator which may include:
 - (a) the payment of a bid fee by bidders to a solicitation; or
 - (b)
 - (i) requiring the affected electrical utility to pay the fees and expenses; and
 - (ii) permitting an affected electrical utility to recover the amounts paid under this Subsection (2) (b).
- (3)
 - (a) The independent evaluator may not make the decision as to which bid should be awarded under the solicitation.
 - (b) The independent evaluator shall:
 - (i) actively monitor the solicitation process for fairness and compliance with commission rules;
 - (ii) report regularly to:
 - (A) the commission; and
 - (B) others as directed by the commission;
 - (iii) develop one or more reports addressing:
 - (A) the solicitation process;
 - (B) any concerns of the independent evaluator related to the solicitation process; and
 - (C) the ultimate results of the solicitation process, including the opinions and conclusions of the independent evaluator;
 - (iv) provide ongoing input regarding issues, concerns, and improvements in the solicitation process with the objective of correcting ongoing deficiencies in the solicitation process to the following:
 - (A) the commission;
 - (B) the affected electrical utility; and
 - (C) others as directed by the commission;
 - (v) render an opinion as to whether:
 - (A) the solicitation process is:
 - (I) fair; and
 - (II) in compliance with this part; and
 - (B) any modeling used by the affected electrical utility to evaluate bids is sufficient;
 - (vi) testify in any proceeding under Section 54-17-302; and
 - (vii) perform other functions and provide other input and reports as the commission may direct, including periodic presentations to interested parties regarding the solicitation process.

Amended by Chapter 382, 2008 General Session